

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

SCOTT A. STEWART, #1823307,

Plaintiff,

v.

SERGEANT BOEINGS, et al.,

Defendants.

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Case No. 6:21-cv-328-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE AND CLOSING CASE**

Plaintiff Scott A. Stewart, a Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

Before the Court is Plaintiff's Notice of Voluntary Dismissal. Docket No. 13. On September 17, 2021, Judge Mitchell issued a Report recommending that the Court dismiss this case without prejudice on that basis. Docket No. 15. Plaintiff received a copy of the Report on September 21, 2021, and has not objected. Docket No. 16.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc),

superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").


Federal Rule of Civil Procedure 41(a)(1)(A)(i) permits a plaintiff to dismiss an action without leave of court by either filing a notice of dismissal prior to service of a responsive pleading or by filing a stipulation of dismissal signed by all parties. Plaintiff's notice meets that requirement.

Having determined that the Magistrate Judge's Report is correct, the Court hereby **ADOPTS** the Report and Recommendation of the Magistrate Judge (Docket No. 15) as the opinion of the District Court. It is therefore **ORDERED** that this case is **DISMISSED** without prejudice at Plaintiff's request.

All pending motions are **DENIED** as **MOOT**.

The Clerk of Court is directed to close this case.

So **ORDERED** and **SIGNED** this **2nd** day of **November, 2021**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE